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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,760	09/10/2003	Thomas L. C. Simpson	3712044.01151	4834
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K&L Gates LLP P.O. Box 1135 Chicago, IL 60690-1135			EXAMINER NGUYEN, HIEP VAN	
			ART UNIT	PAPER NUMBER
			3686	
			NOTIFICATION DATE	DELIVERY MODE
			02/18/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

chicago.patents@klgates.com

Office Action Summary

Application No.

10/659,760

Applicant(s)

SIMPSON ET AL.

Examiner

HIEP NGUYEN

Art Unit

3686

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-53 and 58 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-53 and 58 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-942)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1- 53, and 58 have been examined. Claims 1, 18, 33 and 44 have been amended. Claims 54-57 have previously been canceled. No new matter has been added.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-9, 13-25, 29-50, and 58 are rejected under 35 U.S.C.103(a) as being unpatentable over Causey, III et al. (US. 6,641,533.) in view of De La Huergo (US. 20020038392).

4. With respect to Claim 1, Causey, III et al. teaches a system for reporting on integrity of a wireless communication link within a healthcare facility comprising:

a module associated with a medication treatment application device, the module having a status information output responsive to a signal output generated by the

medication treatment application device ('533; Col./line 2/25-3/10; Col. 8, lines 30-37; col./line 25/18-26/40);

Causey, III et al. further discloses the communication between the medical device module and the infusion device is wireless, does not explicitly disclose a wireless remote device within the healthcare facility having a message indicator responsive to the status information output transmitted over the wireless communication link and representative of the signal generated by the medication treatment application device

De La huergo discloses a wireless remote device within the healthcare facility having a message indicator responsive to the status information output transmitted over the wireless communication link and representative of the signal generated by the medication treatment application device ('392; Paras 0197, 0200, 0223-0224, 0296) , software installed on the wireless remote device, the software configured to report upon the integrity of the wireless communication link by:

Sending a signal to the wireless communication link;

waiting a predetermined amount of time for a response to the signal sent to the wireless communication link ('392; Paras 0325-0327), and

generating a time-output that indicates loss of the wireless communication link when the response is not received within the predetermined amount of time ('392 ; Para 0041, 0221).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the capability for controlling medication

delivery and monitoring as taught by De La Huergo ('392; Abstract) using a medical device module as taught by Causey, III et al. ('533; Abstract) and the combination would have yielded predictable results.

Claims 18, 33, and 44 are rejected as the same reason with Claim 1.

5. With respect to Claim 2, the combined art teaches the system of claim 1.

Causey, III et al. discloses further wherein the association between the module and the medication treatment application device results in at least some data within the status information output passing through the module ('180; Col. 5/line 5/64-6/3.)

Claims 19 and 34 are rejected as the same reason with Claim 2.

6. With respect to Claim 3, the combined art teaches the system of claim 1.

Causey, III et al. discloses further wherein the medication treatment application device is an infusion pump for administering an infusion to a patient ('533; Col. 26, lines 25-40)

Claims 20 and 35 are rejected as the same reason with Claim 3.

7. With respect to Claim 4, the combined art teaches the system of claim 1.

Causey, III et al. discloses further wherein the output generated by the medication treatment device includes data related to an alarm condition ('533; Col. 13, lines 21-23.)

Claim 21, 36, and 45 are rejected as the same reason with Claim 4.

8. With respect to Claim 5, the combined art teaches the system of claim 1.

De La Huergo discloses further wherein the output generated by the medication treatment device includes data related to an alert condition ('392; Paras 0328-0329.)

Claims 22, 37 and 46 are rejected as the same reason with Claim 5.

9. With respect to Claim 6, the combined art teaches the system of claim 1.

Causey, III et al. discloses further wherein the output generated by the medication treatment device includes data related to an infusion volume rate ('533; Col. 15, lines 51-55).

Claims 23, 38 and 47 are rejected as the same reason with Claim 6.

10. With respect to Claim 7, the combined art teaches the system of claim 1, De La Huergo discloses further wherein the output generated by the medication treatment

device includes data related to time remaining before an infusion bag is emptied ('392; Para 0215: querying associated pumps).

Claims 24, 39, and 48 are rejected as the same reason with claim 7.

11. With respect to Claim 8, the combined art teaches the system of claim 1.

Causey, III et al. discloses further wherein the wireless remote device is a personal digital assistant ('533; Col./line 25/31-26/40.)

Claims 41 and 49 are rejected as the same reason with Claim 8.

12. With respect to Claims 9, the combined art teaches the system of claim 1.

Causey, III et al. discloses further wherein the wireless communication link operates within a radio frequency ('533; Col. 19, lines 16-31).

Claims 25 and 50 are rejected as the same reason with Claim 9.

13. With respect to Claim 13, the combined art teaches the system of claim 1.

Causey, III et al. discloses further wherein the message indicator is an audible alarm ('533; Col. 23, lines 12-24).

Claim 29 is rejected as the same reason with Claim 13.

14. With respect to Claim 14, the combined art teaches the system of claim 1.

Causey, III et al. discloses further wherein the message indicator is a visual display ('533; Col. 15, lines 43-65.)

15. With respect to Claim 15, the combined art teaches the system of claim 1.

Causey, III et al. discloses further wherein the audible alarm produces an audible sound in response to the time-out output ('533; Col./line 13/61-14/7.)

Claims 30, 40 are rejected as the same reason with Claim 15.

16. With respect to Claim 16, the combined art teaches the system of claim 14.

Causey et al. disclose further wherein an icon responsive to the time-out output is provided on the visual display ('533; Fig 24: time output).

Claims 31, 42 are rejected as the same reason with Claim 16.

17. With respect to Claim 17, the combined art teaches the system of claim 14.

Causey, III et al. discloses further wherein a pop-up window is provided on the visual display in response to the time-out output ('533, Figs. 24 pop-up window showing time).

Claim 32, 43 and 58 are rejected as the same reason with Claim 17.

18. Claims 10-12, 26-28, 51-53 are rejected under 35 U.S.C.103(a) as being unpatentable over Causey, III et al. (US. 6,641,533.) in view of De La Huerdo (US. 20020038392), and further in view of Heinonen et al. (US. 6,795,421).

19. With respect to Claims 10, 11, 12, the combined art does not disclose wherein the radio frequency is within the 2.4 gigahertz band, and within the 2.45 gigahertz band, and within the 5 gigahertz band. However, this is well known in the art as evidenced by Heinonen et al. ('421).

Heinonen et al. discloses wherein the radio frequency is within the 2.4 gigahertz band, and within the 2.45 gigahertz band, and within the 5 gigahertz band ('421; Col. 1, lines 10-49).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the range of frequencies as taught by Heinonen et al. into the teachings of De La Huerdo./Causey, III et al. for communication between wireless and medical devices.

Claims 26-28, 51-53 are rejected as the same reason with Claims 10, 11, 12.

Response to Arguments

20. Applicant's arguments filed 12/01/2010 have been fully considered but they are not persuasive.

21. In the Remark filed 12/01/2010, the Applicant argued that Goodman does not disclose generating a time-out output that indicates loss of the wireless communication link includes a time-output that indicate loss of a wireless link.

22. In response to the Applicant's argument, the Examiner respectfully disagrees. In fact, De La Huerga discloses that pump unit includes a line sensing switch, when a line is de-linked from the unit, pump may be programmed to transmit a message to controller indicating that the de-linking event has occurred (i.e.. An exemplary pump monitoring and control process is illustrated in FIG. 38 where, at blocks 483 and 485 an IV pump (e.g., 100a) monitors linked IV lines. At block 485, when any unit IV line is detached, pump 100 control jumps to block 486 where the pump determines if at least one line is still linked to the pump 100. Where no lines are linked it is contemplated that the pump may be programmed to disassociate with the patient so that parameter settings for delivering medicant to the patient are not mistakenly used to deliver medicant to another patient. Thus, where no lines are linked to the pump 100 at block 486, control passes to block 488 where the pump erases its entire memory to disassociate the patient 12 and the pump. Continuing at block 489 pump 100 generates

and transmits a message to controller 260 indicating disassociation control then passes to block 401) ('392; Para 0223).

Therefore given the broadest reasonable interpretation to one of ordinary skill in the art, it is submitted that transmitting a message to controller indicating that the de-linking event has occurred is in a form described as the a time-out output in the Applicant's invention.

Therefore, the Examiner maintains the rejection to Applicant's claims.

Conclusion

23. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

24. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

25. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HIEP NGUYEN whose telephone number is (571) 270-5211. The examiner can normally be reached on Monday through Friday between 8:00AM and 5:00PM.

26. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry O'Connor can be reached on 5712726787. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

27. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or (571) 272-1000.

/H. N./
Examiner, Art Unit 3686

/Gerald J. O'Connor/
Supervisory Patent Examiner
Group Art Unit 3686